THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.5861 of 2018

ORDER:

The unsuccessful decree-holder filed this Civil Revision Petition, under Article 227 of the Constitution of India, assailing the order, dated 29.06.2018, in E.P.No.101 of 2017 in I.A.No.405 of 2016 in LAOP.No.8 of 2015 passed by the learned VII Additional District Judge, Gudur.

2. I have heard the submissions of learned counsel for the petitioner/decree-holder and of the learned Government Pleader appearing for the respondent. I have perused the material record.

3. At the hearing, learned counsel for the petitioner submits that the present matter is one of the matters in a batch of EPs in IA.No.405 of 2016 in LAOP.No.8 of 2015; that the Court below, by its similar orders, dismissed similar Execution Petitions; that aggrieved thereof, a batch of revisions are filed before this Court; that this revision is one of such revisions; that this Court allowed some of the revisions in the batch by passing separate orders in those revisions; that, while allowing those revision petitions, this Court found that though Order XXI Rule 46 of the Code of Civil Procedure, 1908, is not applicable, the Court below ought not to have dismissed the Execution Petitions merely for quoting a wrong provision, as the Court is empowered to apply the correct provision i.e., Order XX1 Rule 52 of the Code and

grant the relief; that accordingly, this Court in some of the revisions in the batch had set aside the orders of the Court below passed in similar matters with appropriate observations/directions.

4. A copy of one such orders of this Court, dated 30.08.2018, passed in CRP.No.4215 of 2018 is filed along with the material papers.

5. Learned counsel for the petitioner further submits that the issue involved in the present revision is squarely covered by the afore-said order of this Court and that, therefore, this revision petition may be disposed of in terms of the aforesaid order of this Court.

6. Learned Government Pleader endorses the said submissions.

7. Having regard to the facts & submissions and for the reasons alike as were mentioned in the afore-stated order of this Court, the Civil Revision Petition is allowed and the impugned order is set aside and E.P.No.101 of 2017 in I.A.No.405 of 2016 in LAOP.No.8 of 2015 on the file of VII Additional District Judge, Gudur, is restored to file of the said Court with a direction to proceed with the enquiry and dispose of the same afresh in strict accordance with the procedure established by law. It is made clear that if the attachment order, if any, is vacated, the same shall be revived forthwith by a fresh order of attachment, however after affording an opportunity to both sides. Having regard to the joint request and considering the fact that the matters are sufficiently old, it is directed that the Court below shall endeavor to dispose of the batch of Execution Petitions, including this

petition, as expeditiously as possible and preferably within two months from the date of receipt of a copy of this order.

There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

M.SEETHARAMA MURTI, J

16.11.2018
v v